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And Jong Kyoo Lee

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Orlando Garcia,	)	Case Number 22-0133 AGT
	)	
Plaintiff,	)	NOTICE OF MOTION AND MOTION TO
	)	WITHDRAW AS COUNSEL FOR RECORD
Vs.	)	FOR DEFENDANTS BULMARO
	)	GONZALEZ AND JONG KYOO LEE
	)	
Bulmaro Gonzalez, et al.,	)	Date: January 5, 2024
	)	Time: 10 am
Defendants.	)	Location: Zoom
	)	Hon. Alex G. Tse
	)	
	)	
	)	

Richard A. Mac Bride, attorney of record for defendants Bulmaro Gonzalez and Jong Kyoo Lee, hereby presents his motion to withdraw from this case.

**PLEASE TAKE NOTICE** that on January 5, 2024 at 10 am, or as soon thereafter as the matter may be heard, in the United States District Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102 (via Zoom video link), before the Honorable Alex G. Tse, attorney Richard A. Mac Bride, counsel for Defendants Bulmaro Gonzalez and Jong Kyoo Lee, will move the court for an order allowing him to withdraw as counsel for Defendants Bulmaro Gonzalez and Jong Kyoo Lee in this matter.

This Motion is based upon this Notice; the Memorandum of Points and Authorities; Declaration of Richard Mac Bride Esq., and [Proposed] Order; and upon any other documents or oral argument as may be presented to the Court and/or the Court deems appropriate for consideration.

## MEMORANDUM OF POINTS AND AUTHORITIES

Richard A. Mac Bride (“Mr. Mac Bride”) seeks to withdraw as counsel of record for Defendants Bulmaro Gonzalez and Jong Kyoo Lee (“Defendants”). There has been a breakdown between Mr. Mac Bride and Defendants, including a breakdown of communications, which makes further representation impossible. Business and Professions Code Sec. 6068, as well as the Rules of Professional Conduct, prevent Richard A. Mac Bride from fully disclosing the details of the breakdown in the relationship. This motion is also pursuant to the decision in *Truck Insurance Exchange v. Fireman’s Fund Insurance Company*, 6 Cal.App.4<sup>th</sup> 1050 (1992), 8 Cal.Rptr.2d 228, regarding the issue of whether a lawyer can continue to represent one of two parties if the lawyer has withdrawn from a co-representation of those two parties, such as in this case. Mr. Mac Bride has explained to Defendants the procedures from here forward, what to expect, and that Mr. Mac Bride will seek a ninety (90) day stay for Defendants to find an alternate counsel, or (in the case of an individual) to represent himself.

On November 23, 2023, Mr. Mac Bride notified Defendants Bulmaro Gonzalez and Jong Kyoo Lee in writing by email, and on November 24, 2023, Mr. Mac Bride notified Plaintiff’s counsel and Mr. Gonzalez and Mr. Lee in writing by US Mail, that the Mr. Mac Bride intended to file a Motion to Withdraw.

Mac Bride requests this Court to allow him to withdraw as counsel of record, and grant Defendants Bulmaro Gonzalez and Jong Kyoo Lee a 90 day stay in the action so they will not be prejudiced, and in order for them to have time to potentially find other counsel.

With respect to the present stance of the case, the joint site inspection was performed on January 25, 2023. The Court issued the case scheduling order on October 31, 2023 (Docket #45). The case was referred to mediation on November 1, 2023. Kathryn Dickson was appointed mediator on November 3, 2023 (Docket #47). The mediation date has been tentatively set for January 26, 2024, but Bulmaro Gonzalez has not agreed to this date, since it has been impossible to contact him. (See declaration of Richard A. Mac Bride below.)

Mr. Mac Bride has outstanding fees of \$250.00 owed by Defendants Bulmaro Gonzalez and Jong Kyoo Lee, outstanding since November 23, 2023, and said fees will increase as a result of the necessity of filing this motion. The last time that Defendants provided funds to Mr. Mac Bride was September 26, 2022. Since June 4, 2023, communications have been impossible with defendant Bulmaro Gonzalez. (See declaration below.) In response to Mr. Mac Bride's email indicating the intention to file the Motion to Withdraw, on November 23, 2023, there has been no response. Mr. Mac Bride sent a draft of this motion to both defendants on November 23, 2023 via email, using emails that have been used on a regular basis for communications in the past. Given the present circumstances, it does not appear likely that Mr. Mac Bride's outstanding fees will be paid, or that Defendant Bulmaro Gonzalez will communicate with attorney Richard A. Mac Bride.

#### DECLARATION OF RICHARD A. MAC BRIDE

I, Richard A. Mac Bride, declare as following in support of this motion to withdraw:

1. I represent defendants Jong Kyoo Lee and Bulmaro Gonzalez. Mr. Lee is a tenant at the subject premises, and Mr. Gonzalez is the landlord. At the time of undertaking the engagement to represent both of them, I explained the rules regarding conflicts of interest and potential conflicts of interest, and obtained a written waiver at that time.
2. On June 4, 2023, I received an email from Sergio Gonzalez, the son of defendant Bulmaro Gonzalez, regarding this case. Since that date, June 4, 2023, I have been unable to reestablish contact with Bulmaro Gonzalez or Sergio Gonzalez. I have sent letters and emails to Bulmaro Gonzalez and Jong Kyoo Lee to keep them informed of developments in the case and tried to communicate with them on the following dates: June 16, 2023, June 19, 2023, June 20, 2023, June 29, 2023, August 8, 2023, October 23, 2023, November 3, 2023, November 15, 2023, and November 19, 2023. I have received emails from Jong Kyoo Lee on the following dates: June 18, 2023 and November 15, 2023. I sent a letter specifically to Mr. Gonzalez only on November 8, 2023. The letters on November 8 and November 19, 2023 specifically warned defendants that if I was not able to contact Mr. Gonzalez, I would need to withdraw. I have received no reply from Mr. Gonzalez. I have also left several telephone messages for Sergio Gonzalez, with no reply. (There has been no difficulty in

1 communicating with defendant Jong Kyoo Lee, either by email or by phone. He has been  
2 responsive.)

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4 Law Offices of Richard A. Mac Bride

5 By: /s/ Richard A. Mac Bride

6 Richard A. Mac Bride

7 Date: November 24, 2023  
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[PROPOSED] ORDER ON MOTION TO WITHDRAW

In the matter of Garcia v. Gonzalez et al., 22-0133 AGT, the Court having considered the motion of counsel Richard A. Mac Bride to withdraw from his representation of defendants Bulmaro Gonzalez and Jong Kyoo Lee, and for good cause appearing, it is hereby ORDERED:

1. That the motion is GRANTED; and
2. That attorney Richard A. Mac Bride shall continue to forward the Court's communications to defendants Bulmaro Gonzalez and Jong Kyoo Lee until such time as these defendants have obtained new counsel, or have filed documentation with the court for "pro per" status with a forwarding address for communications from the court;
3. That a 90-day stay is imposed to give time for defendants Bulmaro Gonzalez and Jong Kyoo Lee to obtain new counsel.

Date: \_\_\_\_\_

\_\_\_\_\_  
Hon. Alex G. Tse

United States Magistrate Judge